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STATE BOARD OF ACCOUNTANCY
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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

No. AC-92-25

GEORGE H. MARSHALL
3925 Judah Street
San Francisco, CA 94122
Public Accountant PA 2823

DEFAULT DECISION AND
ORDER OF THE BOARD

FINDINGS OF FACT

1. On or about October 28, 1993, Complainant Carol Sigmann, in her official capacity as Executive Officer of the Board of Accountancy, Department of Consumer Affairs State of California (hereinafter "Board"), filed Accusation No. AC-92-25 against (hereinafter respondent). A copy of Accusation No. AC-92-25 is attached hereto as Exhibit "A" and incorporated herein as though fully set forth.

2. On or about November 12, 1993, Stella Rago, an employee of the Office of the Attorney General, served, by

1 certified mail (with a green Domestic Return Receipt card
2 attached), copies of Accusation No. AC-92-25, Statement to
3 Respondent, Government Code sections 11507.5, 11507.6, and
4 11507.7, Notice of Defense forms, and a Request for Discovery to
5 respondent at his address of record with the Board which was and
6 is 3925 Judah Street, San Francisco, CA 94122. On or about
7 December 1, 1993, the signed green Domestic Return Receipt card,
8 postmarked November 28, 1993, was returned to the Office of the
9 Attorney General by the U.S. Postal Service. The card is signed
10 "Geo H Marshall."

11 The above-described service was effective as a matter
12 of law pursuant to the provisions of California Government Code
13 section 11505, subdivision (c).

14 3. On or about July 20, 1946, Public Accountant
15 certificate No. 2823 was issued to respondent George H. Marshall
16 (hereinafter "respondent"), by the Board, under the laws of the
17 State of California. Said license was in full force and effect at
18 all times relevant herein to the charges herein brought until it
19 expired on April 1, 1993, because the renewal fee was not paid
20 and because evidence of compliance with continuing education
21 requirements (regularly required for renewal)^{1/} was not
22 submitted.

23 4. Business and Professions Code section 118 provides
24

25
26 1. Code Section 5070.5 provides that a licensee must give evidence to the board of compliance
27 with the continuing education provisions of this chapter to renew an unexpired permit. The
requirements are set forth in Board Rule 87, which provides that a licensee shall not engage in public
practice...unless, during the two-year period immediately preceding permit renewal, the licensee has
completed at least 80 hours of qualifying continuing education and submitted the statement required by
Board Rule 89.

1 in pertinent part:

2 "(b) The suspension, expiration, or forfeiture by
3 operation of law of a license issued by a board in the
4 department, or its suspension, forfeiture, or cancellation
5 by order of a court of law, or its surrender without written
6 consent of the board, shall not, during any period in which
7 it may be renewed, restored, reissued, or reinstated,
8 deprive the board of its authority to institute or continue
9 a disciplinary proceeding against the licensee upon any
10 ground provided by law or to enter an order suspending or
11 revoking the license or otherwise taking disciplinary action
12 against the license on any such ground."

13 5. Government Code section 11506 provides in pertinent
14 part:

15 "(b) The respondent shall be entitled to a hearing on
16 the merits if he files a notice of defense, and any such
17 notice shall be deemed a specific denial of all parts of the
18 accusation not expressly admitted. Failure to file such
19 notice shall constitute a waiver of respondent's right to a
20 hearing, but the agency in its discretion may nevertheless
21 grant a hearing"

22 6. The respondent failed to file a Notice of Defense
23 within 15 days after service upon him of the Petition and
24 therefore waived his rights to a hearing on the merits of
25 Accusation No. AC-92-25.

26 7. Government Code section 11520 provides in pertinent
27 part:

 "(a) If the respondent fails to file a notice of

1 defense or to appear at the hearing, the agency may take
2 action based upon the respondent's express admissions or
3 upon other evidence and affidavits may be used as evidence
4 without any notice to respondent;"

5 8. Pursuant to its authority under Government Code
6 section 11520, and based on the evidence before it, including
7 Board records of licensure and probation compliance, the Board
8 finds that the allegations, and each of them, contained in the
9 Accusation, are true, and further specifically finds that
10 respondent failed to comply with an order of the Administrative
11 Committee to complete sixteen (16) additional hours of continuing
12 education.

13 The facts are that respondent appeared before the Board
14 of Accountancy's Administrative Committee on May 2, 1991,
15 resulting in the Committee's requiring, under Rule 87.5(a),
16 respondent's completion of sixteen additional hours of continuing
17 education and requiring that the respondent submit evidence of
18 compliance to the Board no later than October 31, 1991. This
19 requirement was set forth in letters to the respondent dated July
20 16, 1991; November 20, 1991; and January 14, 1992. Respondent
21 failed to respond to these letters.

22 The Administrative Committee Chair issued an order
23 dated May 30, 1993, ordering respondent to submit evidence of
24 completion of the continuing education within thirty days from
25 the date of the order. Respondent failed to respond to that
26 order and has not submitted evidence of completion of the
27 required additional continuing education.

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DETERMINATION OF ISSUES

Respondent's certificate is subject to discipline under Business and Professions Code Section 5100(f) in conjunction with Board Rules 87.5 (a) and (b) by reason of the Findings of Fact set forth hereinabove.

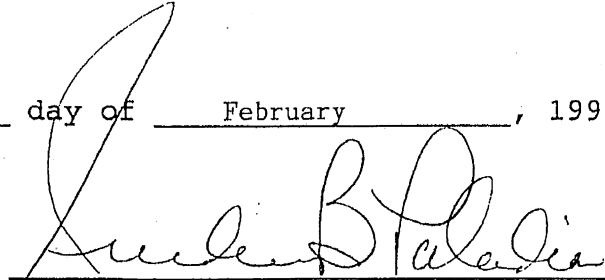
ORDER OF THE BOARD

Cause for revocation having been established, under the Findings of Fact and Determination of Issues of this Decision, the public accountant certificate issued to George H. Marshall, Public Accountant PA 2823, is hereby revoked.

An effective date of March 16, 1994, has been assigned to this Order.

Pursuant to Government Code section 11520, subdivision (b), respondent is entitled to make any showing by way of mitigation prior to and including the effective date of this decision.

Made this 14th day of February, 1994.



FOR THE BOARD OF ACCOUNTANCY

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8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against:) No. AC-92-25
12)
13 GEORGE H. MARSHALL) ACCUSATION
14 3925 Judah Street)
15 San Francisco, CA 94122)
16 Public Accountant PA 2823)

17 CAROL SIGMANN charges and alleges:

18 1. She is the Executive Officer of the California State Board of
19 Accountancy (hereinafter the "Board") and makes and files this accusation solely in her
20 official capacity.

21 LICENSE INFORMATION
22

23 2. On or about July 20, 1946, Public Accountant certificate No. 2823 was
24 issued to respondent George H. Marshall (hereinafter "respondent"), by the Board,
25 under the laws of the State of California. Said license was in full force and effect at all
26 times relevant herein to the charges herein brought until it expired on April 1, 1993,
27 because the renewal fee was not paid and because evidence of compliance with

1 continuing education requirements (regularly required for renewal)^{1/} was not submitted.

2
3 STATUTES, REGULATIONS, AND PROFESSIONAL STANDARDS
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5 3. At all times material herein, section 5100 of the California Business
6 and Professions Code (hereinafter the "Code") provided in pertinent part that "(a)fter
7 notice and hearing, the Board may revoke, suspend or refuse to renew any permit or
8 certificate" issued by the Board for unprofessional conduct which includes, but is not
9 limited to, the grounds set forth in said section of the Accountancy Act.

10 4. Section 5100, subdivision (f) of the Code provides, in pertinent part,
11 that willful violation of any provision of the Accountancy Act or any rule or regulation
12 promulgated by the Board under the authority granted under the Act constitutes
13 unprofessional conduct.^{2/}

14 5. Board Rule 87.5 provides, inter alia, that, following a hearing or
15 investigation conducted pursuant to Business and Professions Code Section 5020, the
16 Administrative Committee may order a licensee to complete additional continuing
17 education as required by the committee, which will contribute to the licensee's
18 professional competence, prior to permit renewal. Subdivision (b) of Rule 87.5 provides
19 that failure of a licensee to comply with an order of a committee made pursuant to
20 this section constitutes cause for disciplinary action under Section 5100 of the Business
21

22
23 1. Code Section 5070.5 provides that a licensee must give evidence to the board of compliance
24 with the continuing education provisions of this chapter to renew an unexpired permit. The
25 requirements are set forth in Board Rule 87, which provides that a licensee shall not engage in public
26 practice...unless, during the two-year period immediately preceding permit renewal, the licensee has
27 completed at least 80 hours of qualifying continuing education and submitted the statement required by
Board Rule 89.

2 2. Board rules and regulations are codified in Title 16 of the California Code of Regulations,
Sections 1-99.1. The rules are referred to herein as "Board rule"; thus, for example, Title 16, California
Code of Regulations, Section 87.5 is referred to as "Board rule 87.5."

1 and Professions Code.

2
3 FOR CAUSE FOR DISCIPLINE

4 6. Respondent's certificate is subject to discipline under Business and
5 Professions Code Section 5100(f) in conjunction with Board Rule 87.5 (a) and (b) in
6 that he has failed to comply with an order of the Administrative Committee to
7 complete sixteen (16) additional hours of continuing education.^{3/}

8 The facts are that:

9 a. Respondent appeared before the Board of Accountancy's
10 Administrative Committee on May 2, 1991, resulting in the Committee's requiring,
11 under Rule 87.5(a), respondent's completion of sixteen additional hours of continuing
12 education and requiring that the respondent submit evidence of compliance to the
13 Board no later than October 31, 1991. This requirement was set forth in letters to the
14 respondent dated July 16, 1991; November 20, 1991; and January 14, 1992.

15 b. Respondent having failed to respond to these letters, and
16 having failed to produce evidence of having completed the sixteen additional hours, the
17 Administrative Committee Chair issued an order dated May 30, 1993, ordering
18 respondent to submit evidence of completion of the continuing education within thirty
19 days from the date of the order. A copy of that Order is attached hereto as Exhibit A.
20 Respondent failed to respond to that order and has not submitted evidence of
21 completion of the required additional continuing education.

22
23 PRAYER

24
25 WHEREFORE, the complainant requests that a hearing be held on the
26

27 3. This requirement for continuing education to be completed by a specific date (in addition to
the usual 80 hours/two years referenced in footnote 1) was imposed by the Administrative Committee
under Rule 87.5(a).

1 matters herein alleged, and that following said hearing, a decision be issued:

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3 1. Revoking or suspending Public Accountant Number certificate 2823
4 heretofore issued to respondent;

5 2. Taking such other and further action as the Board deems proper.

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Dated: October 28, 1993.

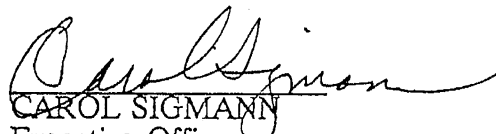
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CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

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Complainant

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